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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,324	07/30/2001	Hisatake Togoe	B-4249 618948-8	4470

7590 05/31/2005

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EXAMINER
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BATURAY, ALICIA

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/918,324	TOGOE, HISATAKE	
	Examiner	Art Unit	
	Alicia Baturay	2155	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/918,324.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05192005</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This Office Action is in response to the amendment filed 07 February 2005.
2. Claims 3, 5, and 6 have been canceled.
3. Claims 1 and 8 are amended.
4. Claim 9 has been added.
5. Claims 1-8 are pending in this Office Action.

### ***Response to Arguments***

6. The objections to the disclosure with respect to the abstract and portions of the specification were addressed and are withdrawn.
7. The objection to the drawings was addressed and is withdrawn.
8. The objection to claim 3 was addressed and is withdrawn.
9. Applicant's arguments filed 07 February 2005 have been fully considered but they are not persuasive for the reasons set forth below.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, 4, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry et al. (U.S. 6,359,880) and further in view of Kolls (U.S. 6,615,183).
12. With respect to claim 1, Curry discloses an internet telephone system utilizing a portable information apparatus having a telephone call function (Curry, col. 1, lines 9-14) comprising: a first server installed in a store (Curry, col. 5, lines 34-38) and to receive information transmitted from the portable the information apparatus (Curry, Fig. 2, element 63; col. 11, lines 33-41) via a radio system (Curry, col. 12, line 60 – col. 13, line 4), receive information transmitted by the portable information apparatus from the first server through a dedicated line (Curry, Fig. 2, element 69; col. 11, lines 33-63), an internet telephone server for receiving the information transmitted by the portable information apparatus from the host computer (Curry, Fig. 1, element 51; col. 10, lines 1-6), and a second server for receiving information transmitted from the internet telephone server and installed by a provider (Curry, Fig. 1, element 27; col. 7, lines 1-12) to which a receiving party subscribes, to enable connection of the receiving party with the portable information apparatus via the dedicated line and the internet (Curry, Fig. 1, element 21; col. 6, lines 13-17). But Curry does not expressly disclose the use of a POS. However, Kolls does teach a first server to be connected with a POS system (Kolls, col. 9, lines 23-25) and a host computer connected with the POS system and POS systems of other stores (Kolls, col. 13, lines 19-30) through respective dedicated lines, the host computer being able to control information transmitted from the stores through the dedicated lines (Kolls, col. 13, lines 34-40). It would have been obvious to

combine the teachings of Curry and Kolls to allow corporate headquarters to employ the uses of a local server to monitor a plurality of stores (Kolls, col. 46, lines 4-6).

13. As to claim 2, Curry-Kolls discloses the invention substantially as described in claim 1, including the first server residing at a convenience store, gas station or dining-out industry (Curry, col. 5, lines 34-38). Convenience stores, gas stations and restaurants are public areas of interest.
14. As to claim 4, Curry-Kolls discloses the invention substantially as described in claim 1, including defining the portable information apparatus as a cellular phone (Curry, Fig. 1, element 1; col. 5, lines 39-43).
15. As to claim 7, Curry-Kolls discloses the invention substantially as described in claim 1, including the POS having the capability to communicate with the portable information apparatus without the server (Kolls, col. 9, lines 23-25).
16. As to claim 8, Curry-Kolls discloses an internet telephone method utilizing a portable information apparatus (Curry, col. 1, lines 9-14) comprising: registering a member of an internet telephone system utilizing the portable information apparatus (Curry, col. 16, lines 60-62; Fig. 2), transmission of a telephone number of the receiving party to a POS system (Kolls, col. 9, lines 23-25) installed in a store (Curry, col. 5, lines 34-38) by using the registered portable information apparatus by the registered number (Curry, Fig. 2, element

63; col. 11, lines 33-41), receiving information transmitted from the portable information apparatus (Curry, Fig. 2, element 63; col. 11, lines 33-41) via a radio system (Curry, col. 12, line 60 – col. 13, line 4) at the POS system (Kolls, col. 13, lines 19-30), and transmitting the information to a host computer via a dedicated line (Curry, col. 11, lines 33-63) connecting the POS system with the host computer (Kolls, col. 13, lines 19-40); transmitting the information received by the host computer to an internet telephone server (Curry, Fig. 1, element 51; col. 10, lines 1-6); transmitting the information received by the internet telephone server to a provider (Curry, Fig. 1, element 27; col. 7, lines 1-12) to which the receiving party subscribes; transmitting the information from the provider to an information apparatus of the receiving party (Curry, Fig. 1, element 21; col. 6, lines 13-17), where telephone information transmitted between the portable information apparatus and the information apparatus of the receiving party is transmitted via the dedicated line and the Internet (Curry, col. 6, line 66 – col. 7, line 12).

17. As to claim 9, Curry-Kolls discloses the invention substantially as described in claim 8, including the method where the telephone number of the receiving party is first transmitted to a first server (Curry, col. 14, lines 24-36) connected with the POS system (Kolls, col. 9, lines 23-25).

***Response to Arguments***

18. Applicant's arguments filed 07 February 2005 have been fully considered but they are not persuasive for the reasons set forth below.

19. ***Applicant Argues:*** With respect to claim 1, Applicant states "Although the Examiner believes that element 69 of Figure 2 of Curry discloses a host computer, the Examiner has not shown to the Applicant where the remaining portion of the above feature is shown in Curry."

***In Response:*** The examiner respectfully submits that Kolls teaches a host computer (universal server) that governs (a single universal server monitors and controls numerous different networks) and processes information transmitted from the respective stores (the universal server supports data communications and data processing with other devices) (see Kolls, col. 13, lines 19-40). This renders the rejection proper, and the rejection stands.

20. ***Applicant Argues:*** With respect to claims 1 and 8, Applicant states "it is not clear to the Applicant where it is taught in Curry, that element 27 receives information from element 51."

***In Response:*** The examiner respectfully submits that Curry teaches portable information apparatus (a wireless handset) calling a PC with voice capabilities by way of the PC's phone number. The domain name server (element 51) translates the dialed telephone number to the IP address for the PC, and this IP address is used at the access server (element 27) to transmit

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a message to the PC (see Curry, col. 18, lines 17-64). This renders the rejection proper, and the rejection stands.

21. ***Applicant Argues:*** With respect to claim 1, Applicant states “Kolls, not only does not recite a feature present in claim 1, but also teaches away from the subject matter of claim 1, because it prompts the person skilled in the art to use an infrared system instead of a radio system. Therefore, the person skilled in the art would not be motivated to combine Kolls with Curry.”

***In Response:*** The examiner respectfully submits that Kolls teaches the use of a portable information apparatus (hand-held device) that can access via a PCMCIA interface the POS system (see Curry, col. 12, line 60 – col. 13, line 4). The Microsoft Computer Dictionary defines a PC Card as “an add-in card that conforms to the PCMCIA specification... Type III cards accommodate devices... such as wireless communications devices.” It can be inferred that because Kolls is discussing connecting to a network via a PCMCIA interface, that the wireless communications type of PCMCIA interface is being discussed. The Microsoft Computer Dictionary defines “wireless communication” as “...radio frequencies, as used by cellular telephones.” Curry discloses the portable information apparatus as a cellular phone (Curry, Fig. 1, element 1; col. 5, lines 39-43). Thus, Kolls and Curry show a portable information apparatus communicating with a POS via a radio system. This renders the rejection proper, and the rejection stands.



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22. ***Applicant Argues:*** With respect to claim 1, Applicant states “There is no recitation of POS systems connected through dedicated lines.”

***In Response:*** The examiner respectfully submits that Kolls teaches the use of a POS system that can communicate with remote location by way of a T1 telecommunication line or a dedicated hardware connection (see Kolls, col. 19, lines 27-35). This renders the rejection proper, and the rejection stands.

23. ***Applicant Argues:*** With respect to claim 8, Applicant states that “the Examiner mentions a POS system only with reference to the Kolls reference. Therefore, it is submitted that Curry does not disclose the above features.”

***In Response:*** The examiner respectfully submits that in response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the use of a POS system) were recited as an alternative expression, and thus if one part of the expression can be rejected, then the entire expression can be. Previously, the expression was stated as “transmitting information received from said first server *or* said POS system receiving said telephone number of said receiving party.” The examiner was able to reject the expression based on Curry because Curry taught a system that receives information transmitted from a portable information apparatus (receives signals from RF telephone handsets) (see Curry, Fig. 2, element 63; col.

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11, lines 33-41). However, in light of the amended claims, Applicant's arguments are moot in view of the new ground(s) of rejection.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay  
May 24, 2005



SALEH NAJJAR  
PRIMARY EXAMINER